Supreme Court, U.S.
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No. 00-1268.

IN THE

SUPREME COURT OF THE UNITED STATES

Meredith T. Raney, Jr.,

Petitioner,

v.

Aware Woman Center For Choice, Inc., a Florida corporation, Edward W. Windle, Jr., and Patricia B. Windle,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

REPLY TO BRIEF IN OPPOSITION

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QUESTIONS RAISED BY BRIEF IN OPPOSITION

Should a myriad of irrelevant issues and fabrications of law and fact presented to the Court in the Brief in Opposition distract the Court from issuance of the writ in this qualifying case of exceptional national importance?

Should the Court issue a writ of certiorari because of fabrications and distortions of law and fact made by petitioner's adversaries?

NOTE TO THE UNITED STATES SUPREME COURT OF RELATED PETITIONS ALREADY FILED WITH THE COURT:

Jane Roe, II v. Aware Woman Center For Choice, Inc., et al.,
Supreme Court number 00-1301

Meredith T. Raney, Jr. v. City of Melbourne, Florida,
Supreme Court number 00-1350

Ray Sienkiewicz v. John McDougall, individually, et al.,
Supreme Court number 00-1365

Ray Sienkiewicz v. Larry Hart, individually, Charles Wilson, individually, Janet Reno, individually, William J. Clinton, individually, and Jill Babyack,
Supreme Court number 00-1419

ELEVENTH CIRCUIT

Ray Sienkiewicz anticipates the filing before the end of March, 2001, of a petition for writ of certiorari to review the case of:

Ray Sienkiewicz v. John McDougall, et al.
United States Court of Appeal number 00-13805-II

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FIRST REASON FOR GRANTING THE WRIT

A MYRIAD OF IRRELEVANT ISSUES AND FABRICATIONS OF LAW AND FACT PRESENTED TO THE COURT IN THE BRIEF IN OPPOSITION SHOULD NOT DISTRACT THE COURT FROM ISSUANCE OF THE WRIT IN A QUALIFYING CASE OF EXCEPTIONAL NATIONAL IMPORTANCE.

The true facts and existing law of this case are not complicated. The respondents have conceded the essential elements of the case: Meredith T. Raney was, at the times in question, within the boundaries of the Aware Woman Center For Choice facility where his F.A.C.E.-protected rights were violated by respondents' procurement of the Melbourne City Police to accomplish this end.

The correction of the grievous mistake in the Court of Appeals justifies the issuance of the writ of certiorari, not so much because this particular referral counselor was wronged, but because the tragic decision below will be the cause of death and injury of a great many desperate girls and young women. These people deserve all the help they can get in dealing with crisis pregnancies. This Court has long been the champion of distraught pregnant girls and women and should not now turn its judicial back to those millions who require the Court's continued protection.

Additionally, there is much amiss within the federal judiciary below. Those problems also justify the issuance of the writ.

But first, Meredith Raney would like to erase any possible conflict between the lawful application of F.A.C.E requested by his civil action and the convoluted proposals furnished by Aware Woman Center For Choice in its recent

brief. There is a "smoke and mirrors" element in the Brief in Opposition which will be addressed because of the great importance of this case to so many young women throughout our nation.

(a) The Florida Supreme Court test for determining liability for misuse by a business operator of local police has no application to the misuse by Aware Woman of the Melbourne Police.

No. Not only has *Johnson v. Weiner*, 19 So. 2d 699, (1944), supplied the requisites to determine responsibility for misuse of local police, the test was approved by the Middle District of Florida in *Gilbert v. Sears*, 899 F.Supp. 597 (M.D.Fla. 1995). The Court of Appeals decision creates a conflict with the Florida Supreme Court by elevating guard-dog responses by police to a fiduciary relationship just to exonerate an abortion business from F.A.C.E. liability. Aware Woman was shown to control the police stationed on-site and is liable for procuring them as instruments to violate Meredith Raney's F.A.C.E. rights.

(b) The Counselor's civil action was brought for false arrest.

No. The violations of F.A.C.E. occurred when the police attempted to threaten and intimidate the counselor. There is no allegation in the Complaint about any arrests. While arrests did occur, these events always took place after the F.A.C.E. violations occurred. No civil actions have been brought against Aware Woman Center For Choice for false arrest, malicious prosecution, false imprisonment or the like: only for F.A.C.E. violations. 18 U.S.C. §248 (a)(1) requires only attempted intimidation of the counselor.

(c) The Counselor's arrests prove that he was in the

facility unlawfully.

No. Arrests in the United States of America do not automatically result in conviction. Our Constitution is plain: no one shall be deprived of liberty without due process of law; due process of law requires a fair trial. U.S. Constitution, Amend. V and Amend. VI.

Sadly, there was a brief time in Melbourne, Florida when there was an exception to the foregoing fundamental rule of law made by the local court for those citizens who were *personae non grata* of the Aware Woman Center For Choice. However, the Florida judges were eventually nauseated by this gross human-rights abuse and rebelled against further participation in the farce. Thus, while it is true that Meredith T. Raney, Jr. was arrested for disobeying the *Madsen v. Women's Health Center, Inc.*, 114 S.Ct. 2516 (1994), injunction after each of the three violations of his F.A.C.E. rights had occurred, he was exonerated of any wrongdoing. All three of the charges were dismissed or dropped. Meredith Raney was lawfully providing F.A.C.E.-protected referral services in the Aware Woman facility and should never have been threatened by Aware Woman.

(d) Meredith T. Raney was enjoined by the United States Supreme Court from entering the *Madsen* buffer zone.

No. In its decision approving the *Madsen* (*supra*) injunction, this Court applied it to several named persons and organizations plus those acting in concert with them - none of which included Meredith Raney.

The records show that none of the named parties were ever charged with contempt of court for violating the *Madsen* (*supra*) injunction. This awesome weapon was misused by the Aware Woman Center For Choice to intimidate, threaten,

and obstruct all persons lacking its approval to enter the buffer zone. These victims included a neighbor picking up his mail and another neighbor out for a stroll on the public sidewalk. These people were arrested. And in *McKusick v. City of Melbourne*, 96 F.3d 478 (11th Cir. 1996), a young woman, seeking repentance for an abortion, was threatened with arrest for reading her Bible and praying on the sidewalk in the buffer zone.

None of these people were in contempt of court. None of them had violated an injunction approved by this Court. Yet all suffered from the tyranny and arrogance of Aware Woman Center For Choice. In the case of this pro-life referral counselor, such abuse constituted violations of F.A.C.E.

(e) Meredith T. Raney, Jr. is a protestor and anti-abortion activist and so is excluded from F.A.C.E. protection.

No. Meredith T. Raney, Jr. would be the first to admit that he abhors services at Aware Woman Center For Choice such as the forced abortion where Jane Roe, II was brutally held on the table, screaming for help and begging for her life, while the abortionist slashed her uterus and colon, nearly murdering her in this barbaric operation. Such opposition, in a civilized society, should be shared by all decent human beings. The counselor's concern that other women should not be treated likewise does not pre-empt him from F.A.C.E. protection as a "protester" or "anti-abortion activist".

Since such mis-designations by abortion providers of those with whom it disagrees are common, Meredith Raney had gone to considerable lengths in the body of his Complaint to carefully spell out the categories of pro-life persons at abortion clinics; he explained that demonstrators and

protestors and those in prayer are not covered under F.A.C.E.; however, referral counselors such as himself do have this federal protection as providers of referral and counseling services in accord with 18 U.S.C. §248 (e) (5).

(f) The sidewalk in the buffer zone is not a *forum* area.

No. The concept of *forum* rights are as old as civilization and were certainly not the creation of this Court in *Schenck v. Pro Choice Network*, 519 U.S. 357, or *Madsen* (*supra*). *Marsh v. Alabama*, 66 S.Ct. 276 (1946), reminds us that sidewalks which have been opened to interstate commerce contain at least limited opportunities for those who are unwelcome and unwanted to provide written information in a peaceful manner. Grace Marsh was certainly uninvited, unwanted, and unwelcome in Chickasaw, Alabama. *Marsh v. Alabama* (*supra*).

Meredith Raney availed himself of the *forum* rights to lawfully provide referral counseling in the Aware Woman facility. This Court specifically stated that such rights would persist in the buffer zone injunction. *Madsen* (*supra*) at page 2524. Further, this Court provided the standards for behavior for pro-life counselors in the *Schenck* (*supra*) decision.

At no time, though, has Meredith Raney claimed that his rights in the buffer zone were created by the Supreme Court. The concept of *forum* rights predates the existence of this country. We have protected such rights as part of our heritage. Now, F.A.C.E. is part of the legal arsenal available to pro-life counselors in abortion facility *forum* areas providing reproductive health services described in 18 U.S.C. §248 (e) (5).

(g) Meredith T. Raney, Jr. cannot be protected under

F.A.C.E. because his referral services are not welcome or wanted by Aware Woman Center For Choice.

No. The referral services and life-saving assistance of the rescue squad in *Jane Roe, II v. Aware Woman et al.*, Supreme Court number 00-1301, were not wanted or welcome by the abortionist or the clinic. Yet it is likely that Jane Roe, II would have died in agony had Aware Woman further delayed the receipt by this young woman of those services.

The United States Supreme Court has insisted that the information provided to women considering an abortion be truthful. *Planned Parenthood v. Casey*, 112 S.Ct. 2791 (1992). No rational person will believe that any worker at Aware Woman told Jane Roe, II that should she change her mind about getting an abortion, that she would be raped and butchered.

Nor would any rational person believe that a worker at an abortion clinic which was spreading AIDS and other deadly infections because of lack of sterilization of the abortion instruments would tell any potential customer the truth of this horrible risk to life and health.

For that matter, there is nothing about the name of this particular clinic which would warn a naive girl from hundreds of miles away that she was being brought to an abortion clinic for a procedure that she did not want unless a pro-life counselor such as Meredith Raney were there at the entrance to warn her of this danger. If "welcome" or "wanted" are ever to be made a condition of F.A.C.E. protection, then the persons making such determinations cannot be clinic owners.

(h) The presence of F.A.C.E. protected pro-life counselors is not essential to the proper operation of an abortion clinic.

No. Federal Courts have approved of FA.C.E. protection for a variety of persons working in abortion facilities including janitors. *U.S. v. Dinwiddie*, 76 F.3d 913 (8th Cir. 1996). To date, all such persons have been those that somehow contributed to the financial success of the business.

This pro-life counselor knows that there can be no true choice of an abortion by a girl intentionally deprived of the truthful information she requires, not only of the risks at a particular abortion clinic, but also of the various resources and alternative services available to her in the specific community. Such a concept is consistent with the rulings of the Supreme Court, from *Roe v. Wade*, 35 L.Ed. 2d 147 (1973), to *Stenberg v. Carhart*, 147 L.Ed. 743 (2000), and particularly in *Casey* (*supra*) Thus, there could be no proper operation of the Aware Woman Center For Choice facility without the effective presence of one or two pro-life referral counselors in the *forum* area of the facility.

i. Pro-abortion counselors are not protected at pro-life facilities.

No. An "equal rights" application will ensure that pro-abortion referral counselors providing referral information from the *forum* areas of adoption agencies will likewise be protected when complying with *Schenck* (*supra*) standards.

None of the numerous hoops and hurdles proposed by Aware Woman as obstacles to issuance of the writ have any sound basis in law or fact. For instance, the Aware Woman personnel were never "forced" to call the police. The truth is that the police were stationed on the premises already and knew what to do if they saw this pro-life counselor.

SECOND REASON FOR GRANTING THE WRIT

THE COURT SHOULD ISSUE A WRIT OF CERTIORARI BECAUSE OF FABRICATIONS AND DISTORTIONS OF LAW AND FACT MADE BY SOME OF PETITIONER'S ADVERSARIES.

In virtually all litigation the adversaries are the opposing parties named in the litigation. Regrettably, some of the federal judges in the courts below have chosen to become adversaries in this case.

Many a young lawyer has experienced feelings of great bitterness when in some dusty small claims courtroom an aging shyster with no regard for the truth has prevailed by intentionally misstating the facts and the law of the case. Such anger has been directed at a worn-out lawyer who may be unable to feed his family were it not for such chicanery.

Those harsh feelings should be reserved for the judges who knowingly allow this misuse of their courts. Worse yet are the rare instances in which the judge, no matter what her or his motivation, takes an active role in such malfeasance.

There is the present instance where the district judge was shown, literally, that the Melbourne City Police were used as stationary guard dogs to threaten and intimidate those persons not in favor with the Aware Woman personnel. Incredibly, the district judge then proclaimed that these "guard-dog" officers were in fact behind the wheels of their police cars, driving up and down Melbourne's roads, on routine patrol. Apparently the district judge felt that such a fabrication was needed to enable her to rule in favor of Aware Woman.

Another time, the same district judge pointedly ignored

the extensive crisis pregnancy counseling training which Meredith Raney had obtained and called him "a self-proclaimed 'counselor'". *Raney v. City of Melbourne*, Supreme Court number 00-1350.

The judges at the Court of Appeals have also chosen adversarial roles. For instance, an Eleventh Circuit panel has sneeringly called Mr. Raney "an admitted anti-abortion activist". *Raney v. City of Melbourne* (*supra*).

In light of the slurs and fabrications by the federal judges, the distortions of the Brief in Opposition are pale by comparison.

Federal judges are bound by the Constitution to a code of conduct succinctly called "good Behaviour". U. S. Constitution, Article III, Section 1. No reasonable person would believe that judicial fabrication of material facts is good behavior. Moreover, there is a blatant appearance below of impropriety which should be corrected by this Court. *Liteky v. United States*, 114 S.Ct. 1147 (1994).

When it comes to rewriting the F.A.C.E. Act in order to secure an outcome adverse to Meredith Raney, the opposing attorneys are greatly overshadowed by the appellate judges. Some of the additions and requirements added to F.A.C.E. by the Eleventh Circuit panel are as follows:

1. "ATTACHED"
2. "CREDENTIALED"
3. "HEALTHCARE"
4. "PROFESSIONALS"
5. "RECOGNIZED"
6. "TRAINED"
7. "UNREGULATED"
8. "VOLUNTEER"

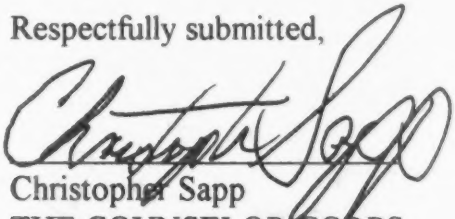
Such revisions are relegated by the Constitution to our Congress. Article I Sections 1 and 8. What has happened here is not "interpretation" but a wholesale redrafting of 18 U.S.C. §248 apparently so that favored parties and the abortion industry are protected from the consequences of their wrongdoing.

Whether the judges below were motivated by personal ambition, bigotry, blackmail, greed, or simply an over-zealous desire to maximize the number of abortions, voluntary and involuntary, that are done nationwide, the end result of their misconduct has been a nationwide threat to the lives and well-being of millions of pregnant young women, now and for years to come.

CONCLUSION

Meredith T. Raney, Jr. respectfully requests that this Court grant a writ of certiorari not so much because of his need for protection under F.A.C.E. but because of the millions of girls and young women who deserve all of the love and help offered by pro-life referral counselors when dealing with crisis pregnancies. The decisions may be the most important ones they will ever make. Their lives and health often hang in the balance. Therefore, it is of greatest national importance that pro-life referral counselors receive the full protection of F.A.C.E. Additionally, the evil cancer of judicial impropriety, or at least its appearance, should be removed from this case.

Respectfully submitted,



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